IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL MISC.APPLICATION FOR TRANSFER NO.8255 OF 2005

Tony Rodrigues & Anr. .. Applicants.
Vs.
State of Maharashtra & Anr. .. Respondents.

Mr.Robert D'Mello for the applicants.
Mr.A.S.Shitole A.P.P. for the State.
Ms.Sartaj Shaikh for respondent no.2.

CORAM : D.B.BHOSALE, J.
DATED : 20TH JUNE, 2006

P.C.:

. Heard learned counsel for the parties.

2. This is an application under section 407(1)(c) of the Code of Criminal Procedure seeking transfer of the case from Mangaon Court, Dist. Raigad (in C.R.No.51 of 2004) to Bhoiwada Court, Mumbai. The applicants have specifically averred in the application that all the witnesses, except two panchas, are residents of Mumbai and even the Investigating Officer R.A.Chavan is presently posted in Thane police station. Mr.Robert D'Mello, learned counsel for the applicants submits that the applicants are prepared to bear the expenses of to and fro of two panchas, who are not the residents of Mumbai whenever their presence is required for recording their evidence. Ms.Shaikh, learned counsel for respondent no.2 - original complainant, on instructions states that she has no objection for transferring the case from Mangaon Court to Boiwada Court,

Mumbai. I perused the medical certificate of applicant no.1 which shows that applicant no.1 is sufferring from Chronic Renal Failure, end - stage Renal Disease and he is on maintenance Dialysis. He is advised to take rest and avoid travelling. Mr.Robert D'Mello, learned counsel for the applicants submits that the condition of applicant no.1 has further deteriorated after issuance of the medical certificate dated 21.9.2005. The learned A.P.P. has no objection for transferring the case in view of the fact that all the witnesses including the Investigating Officer are the residents of Mumbai and the applicants are prepared to bear the expenses of two panchas who are not the residents of Mumbai. Considering the submissions advanced by the learned counsel for the parties and keeping in view the provisions of clause (c) of sub-section (1) of section 407 which empowers the Court to transfer the case for the general convenience of the parties and the witnesses. Hence I pass the following order:

. The case arising out of C.R.No.51 of 2004 is transferred from Mangaon Court, Dist.Raigad to Boiwada Court, Bombay. On receipt of record the Boiwada Court shall hear and decide the case on merits in accordance with law.

. The application is, accordingly, disposed of.

(D.B.Bhosale, J.)